

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 21-40083

LOVES FURNITURE INC.,

Chapter 11

Debtor.

Judge Thomas J. Tucker

**FURTHER ORDER REGARDING FURTHER PROCEEDINGS ON THE
UNRESOLVED PORTION OF THE MOTION FOR IMMEDIATE AND ONGOING
COMPENSATION, FILED BY LCN AVF WARREN (MI) LLC AND LCN AVF
DEARBORN (MI) LLC**

This case is before the Court regarding the unresolved portion of the motion entitled “Motion of LCN AVF Warren (MI) LLC and LCN AVF Dearborn (MI) LLC Seeking Entry of an Order Compelling Debtor to Provide Immediate and Ongoing Compensation For Its Use And Occupancy of Certain Leased Premises” (Docket # 165, the “Motion”). As provided in the Court’s March 31, 2021 Opinion and Order (Docket # 343), the Court was to have held a further hearing on May 5, 2021, regarding the unresolved portion of the Motion, relating to real estate taxes. After reviewing the supplemental papers filed by the parties (Docket ## 367, 392), the Court adjourned the May 5, 2021 hearing, to May 19, 2021 at 11:00 a.m. (Notice, Docket # 399). Then the Court adjourned the hearing again, this time to June 2, 2021 at 11:00 a.m. (Notice, Docket # 421).

The Court has considered the Debtor’s argument, that the pending appeal to the district court filed by the LCN Parties¹ has divested this Court of jurisdiction to decide the unresolved portion of the Motion. (*See* Debtor’s Corrected Response, etc. (Docket # 392) at 4-5). The

¹ “LCN Parties” means the parties so defined in the Court’s March 31, 2021 Opinion and Order (Docket # 343).

Court also has considered the LCN Parties' written response to the Debtor's argument, filed May 12, 2021. (Docket # 415).

The Court concludes that it should not conduct any further proceedings or any further hearing, or make any further rulings, on the unresolved portion of the Motion, while the LCN Parties' appeal is pending. The Debtor likely is correct that the appeal has divested this Court of jurisdiction and authority to take any further action on the Motion. This is so even though in this Court's view, the Order being appealed from probably is not a final, appealable order, and therefore the appeal probably should be dismissed for that reason. But that is a decision for the district court, rather than this Court, to make. *See Harchar v. United States (In re Harchar)*, No. 07-3184, 2009 WL 1585993, at *2 (Bankr. N.D. Ohio 2009).

Under the circumstances, the Court concludes that it would be imprudent, at a minimum, and probably impermissible, for this Court to conduct any further proceedings on the Motion while the appeal is pending. Accordingly, the Court finds good cause to enter this Order.

IT IS ORDERED that the further telephonic hearing on the Motion, currently scheduled for June 2, 2021 at 11:00 a.m., is adjourned to **July 7, 2021 at 11:00 a.m.**

Signed on May 28, 2021



/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge